

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

EMILY GILBY; TEXAS DEMOCRATIC
PARTY; DSCC; DCCC; and TERRELL
BLODGETT,

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as
the Texas Secretary of State,

Defendant.

CIVIL ACTION NO. 1:19-cv-01063

THE TEXAS SECRETARY OF STATE'S NOTICE OF APPEAL

Pursuant to Federal Rules of Appellate Procedure 3(a)(1) and 4(a)(1)(A), Defendant Ruth Hughs, in her official capacity as the Texas Secretary of State, gives this notice of appeal to the United States Court of Appeals for the Fifth Circuit from the Order entered in this action on August 11, 2020. [ECF No. 107] The Secretary moved to dismiss all claims based on sovereign immunity. The order denying the Secretary's motion to dismiss is therefore immediately appealable under the collateral order doctrine. *See P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 141 (1993); *City of Austin v. Paxton*, 943 F.3d 993, 996 (5th Cir. 2019). Because the Secretary asserted sovereign immunity against all claims asserted by the plaintiffs, this notice of appeal divests this Court of jurisdiction during the pendency of the appeal. "[N]otice of interlocutory appeal following a district court's denial of a defendant's immunity defense divests the district court of jurisdiction to proceed against that defendant." *Williams v. Brooks*, 996 F.2d 728, 729–30 (5th Cir. 1993) (per curiam); *see also Wooten v. Roach*, 964 F.3d 395, 412 (5th Cir. 2020). Based on the foregoing Fifth Circuit precedent, proceedings in this Court, including all discovery matters, are suspended pending resolution of the appeal.

Date: August 14, 2020

Respectfully submitted.

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**COUNSEL FOR THE TEXAS SECRETARY OF
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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 14, 2020, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN